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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,081	08/06/2003	Pramod K. Gupta	24866A	9824

28624 7590 09/01/2006

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EXAMINER

PARA, ANNETTE H

ART UNIT	PAPER NUMBER
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1661

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/636,081	Applicant(s) GUPTA ET AL.	
	Examiner Annette H. Para	Art Unit 1661	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED July 21, 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

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Applicant's arguments filed on July 21, 2006 have been fully considered, but they are not persuasive. Applicant argues that the Pullman et al. reference fails to disclose all the elements of the claimed invention. Applicant argues that Pullman et al. do not disclose or suggest the step of cultivation in a synchronization medium.

This is not found persuasive. Pullman et al. teach a method of cultivation of proembryos in a medium with a pH of 5.7 (column 13 table1) comprising 88.4 mg/L-132.6 mg/L of auxin, 69.36 mg/L- 144.5 mg/L of cytokinins in combination with 0.05- 1.0% activated charcoal (column 7, lines 24-28). As explained by the applicant on page 6, paragraph 1 of the remarks, the term 'pre-cotyledonary embryos" in the instant application and "proembryos" in Pullman et al. both refer to the state of the embryonic cells prior to the development stage. Pullman et al further teach that for Loblolly pine the osmotic level should be of at least 200 mM/kg and preferably about 240 mM/kg or even higher. Moreover Pullman et al. teach the transfer of the proembryos to a development culture medium (column 7, lines 29-31).

Further applicants argue that the pre-cotyledonary embryos of the instant application are cultivated in synchronization medium after the maintenance stage and prior to the development stage, whereas, Pullman et al. teaches the culture of proembryos in a maintenance medium in which no hormone absorbent is usually necessary or desirable at this time.

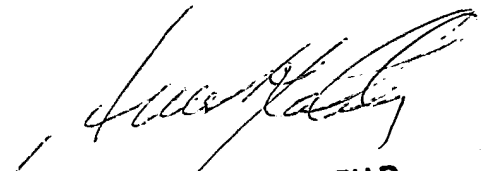
This is not found persuasive. Pullman et al. do not refer to the first medium as a synchronization medium, but Pullman et al.'s medium comprises the same ingredients that the synchronization medium of the claimed invention. Further, Pullman et al. teach the transfer of the proembryos to a development culture medium (column 7, lines 29-31).



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Inserting in claim 1, that the pre-cotyledonary conifer embryogenic cells are cultivated in the synchronization medium prior to cultivation in a development medium add no new step not taught by Pullman et al.



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PRIMARY EXAMINER